

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

1

**The Minutes**

**February 15, 2000**

**MISC. ORDER  
2000-01**

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding to discharge the duties described in Rules 75, 76, 77 and 78 of the California Rules of Court during the absence of the Presiding Justice from the court for the period of February 25, through February 29, 2000, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of its court calendar session. Present: Scotland, Presiding Justice; Davis, Associate Justice; Nicholson, Associate Justice; and Conrad, Bailiff. Calendar called.

**C029724      HERRING v. METRO HEALTH & FITNESS, INC.**

Cause called. Joseph Fenech appeared for appellant to notify the court of a settlement. Presiding Justice Scotland ordered the case off calendar pending settlement.

**C027818      KELLY v. SIERRA-AT-TAHOE, INC.**

Cause called. Philip A. Olsen argued for appellant. Timothy M. Smith argued for respondent. William C. McKinley appeared for respondent but did not argue. Cause submitted.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

2

**The Minutes**

**February 15, 2000 continued**

At 10:06 a.m., court recessed. At 10:11 a.m., court reconvened with Acting Presiding Justice Davis, Associate Justice Raye, and Associate Justice Morrison.

**C028998      UNITED PARCEL SERVICE COMPANY v. PEDUS SECURITY SERVICES, INC.**

Cause called. Shelley A. Kramer argued for appellant. Thomas M. Crowell appeared for appellant but did not argue. Joseph A. Welch argued for respondent. Alison F. Greene argued for respondent. Cause submitted.

At 10:45 a.m., court recessed. At 10:47 a.m., court reconvened with Acting Presiding Justice Nicholson, Associate Justice Morrison, and Associate Justice Callahan.

**C030144      THE PEOPLE v. SHAKOOR**

Cause called. Matt Wilson, court appointed counsel, argued for appellant. Alison Elle Aleman, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:05 a.m., court recessed. At 11:09 a.m., court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson and Associate Justice Hull.

**C030021      WEMER, etc., et al. v. COLE et al.**

Cause called. Stephanie J. Finelli argued for appellants. Mark E. Ellis argued for respondent Robert M. Cole. Eric M. Schroeder argued for respondent Stephen N. Cole. Cause submitted.

At 11:50 a.m., court recessed. At 2:00 p.m., court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson, and Associate Justice Morrison.

**C028033      THE PEOPLE v. SPENCE**

Cause called. Colin J. Heron argued for appellant. Alison Elle Aleman, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:40 p.m. court recessed. At 2:44 p.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison, and Associate Justice Callahan.

## 3

**February 15, 2000 continued**

We concur: Davis, Acting P.J.  
Kolkey, J.

## 4

**February 15, 2000 continued**

**C030810      THE PEOPLE v. RIDDLE      (Not for Publication)**

The judgment is affirmed.

NICHOLSON, Acting P.J.

We concur: Callahan, J.  
Kolkey, J.

**February 16, 2000**

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of its court calendar. Present: Raye, Acting Presiding Justice; Morrison, Associate Justice; Callahan, Associate Justice; and Rios, Bailiff. Calendar called.

**C026832 THE PEOPLE v. PINOLA**

Cause called. Timothy J. Foley, court appointed counsel, argued for appellant. Michael A. Canzoneri, Deputy Attorney General, argued for respondent. Cause submitted.

**C027985 THE PEOPLE v. PINOLA**

Cause called. Timothy J. Foley, court appointed counsel, argued for appellant. Michael A. Canzoneri, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:53 a.m., court recessed. At 9:56 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Morrison, and Associate Justice Kolkey.

C031296 BOWEN v. GATES et al.

Elliot L. Bien argued for appellants Gates et al and appellant California Academy of Sciences et al. David R. Hammer argued for respondent. Cause submitted.

At 10:22 a.m., court recessed. At 2:00 p.m., court reconvened with Presiding Justice Scotland, Associate Justice Sims, Associate Justice Morrison, and Bailiff Conrad.



**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

6

**The Minutes**

**February 16, 2000 continued**

**C030482      COUNTY OF YUBA v. SAVEDRA      (Not for Publication)**  
The judgment is affirmed insofar as it establishes paternity in respondent. In all other respects, the judgment is reversed, and the matter is remanded to the trial court for proceedings consistent with this opinion.

KOLKEY, J.  
We concur:    Blease, Acting P.J.  
                 Callahan, J.

**February 17, 2000**

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of its court calendar session. Present: Blease, Acting Presiding Justice, Morrison, Associate Justice; Hull, Associate Justice; and Conrad, Bailiff. Calendar called.

**C30411      VILLASENOR et al. v. BENSLEY**  
Cause called. Jay-Allen Eisen argued for appellants. Charles S. Redfield argued for respondent. Cause submitted.

At 9:56 a.m., the court recessed. At 10:00 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison, and Associate Justice Callahan.

**C030136      CHETCUTI et al. v. DESMOND, MILLER AND DESMOND**  
Cause called. John F. Mounier Jr. argued for appellants. Linda Yackzan appeared for appellants but did not argue. Steven A. Lewis argued for respondent. Cause submitted.

At 10:35 a.m., court recessed. At 10:38 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Raye, and Associate Justice Callahan.

**C028666      HANSEN et al. v. SACRAMENTO-YOLO PORT DISTRICT**  
Rex-Ann S. Gualco argued for appellants. Richard E. Coombs argued for respondents. Cause submitted.

Court recessed at 11:00 a.m., until 9:30 a.m., February 18, 2000.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

7

**The Minutes**

**February 17, 2000 continued**

- C029636      RAMIREZ et al. v. CASHA RESOURCE HOME HEALTH SERVICES, Inc., et al.      (Not for Publication)**  
Accordingly, the trial court's judgment is affirmed. The parties shall bear their own costs on appeal. (Rule 26(a), Cal. Rules of Court.)  
                                 KOLKEY, J.  
I concur:                Scotland, P.J.  
I respectfully dissent.  
                                 Raye, J.
- C029993      THE PEOPLE v. YOUNG      (Not for Publication)**  
The judgment is affirmed.  
                                 DAVIS, Acting P.J.  
We concur:            Nicholson, J.  
                                 Kolkey, J.

**February 18, 2000**

At 9:29 a.m., the court met in the Library & Courts Building for a continuation of its court calendar session. Present: Sims, Acting Presiding Justice; Nicholson, Associate Justice; Morrison, Associate Justice; and Conrad, Bailiff.

- C029050      DEPARTMENT OF SOCIAL SERVICES v. STATE PERSONNEL BOARD; CAGLE MOORE**  
Cause called. Ben Allamano argued for respondent. Dawn M. Ross argued for appellant with additional citations. Cause submitted.
- At 9:54 a.m., court recessed. At 9:56 a.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Callahan, and Associate Justice Hull.
- C031607      MAYLE et al. v. GRANT JOINT UNION HIGH SCHOOL DISTRICT et al.**  
Cause called. Leo F. Donahue argued for appellants. Elisa Ungerman argued for respondents. Cause submitted.

Court recessed at 10:32 a.m., until 9:30 a.m., February 22, 2000.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

8

**The Minutes**

**February 22, 2000**

**C029961      THE PEOPLE v. WASHINGTON      (Not for Publication)**

It is ordered that the opinion filed herein on January 26, 2000, be modified as follows:

1. ...
2. ...
3. ...

The judgment is modified to award defendant a total of 69 days of presentence custody credits in case No. 107609. The judgment is further modified to award defendant a total of 727 days of presentence custody credits and 170 days of conduct credits in case No. 95F06373.

This modification changes the judgment.

Defendant's petition for rehearing is denied.

SCOTLAND, P.J.

Davis, J.

Hull, J.

**C030331      THE PEOPLE v. BUTTERFIELD**

Appellant's petition for rehearing is denied.

SCOTLAND, P.J.

**C031431      THE PEOPLE v. HORRELL**

Appellant's petition for rehearing is denied.

SCOTLAND, P.J.

**C032841      In re SARA D.; CHILDREN'S SERVICES DIVISION v. MACHELLE D. et al.**

Appellant Shawn H's petition for rehearing is denied.

SCOTLAND, P.J.

**C032841      In re SARA D.; CHILDREN'S SERVICES DIVISION v. MACHELLE D. et al.**

Appellant Machelles D's petition for rehearing is denied.

SCOTLAND, P.J.

**C030993      THE PEOPLE v. ALLEN      (Certified for Publication)**

The judgment is affirmed.

DAVIS, J.

We concur:      Blease, Acting P.J.

Raye, J.



**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

9

**The Minutes**

**February 22, 2000 continued**

At 9:34 a.m., the court met in the Library & Courts Building for a continuation of its court calendar session. Present: Blease, Acting Presiding Justice; Davis, Associate Justice; Morrison, Associate Justice; and Rios, Bailiff.

**C029465      THE PEOPLE v. SHIELDS**

Cause called. Michael Ian Garey argued for appellant. No appearance was made on behalf of respondent. Cause submitted. (Consolidated with C029588.)

**C029588      THE PEOPLE v. SHIELDS**

Cause called. Michael Ian Garey argued for appellant. No appearance was made on behalf of respondent. Cause submitted. (Consolidated with C029465.)

At 9:34 a.m., court recessed. At 9:55 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Sims, and Associate Justice Davis.

**C032253      FRIENDS OF THE TRAILS et al v. NEVADA IRRIGATION DISTRICT et al.**

Cause called. Eric Grant argued for appellants Blasius et al. Harold E. Johnson appeared for appellants Blasius et al., but did not argue. James S. Burling appeared for appellants Blasius et al., but did not argue. William H. Spruance argued for appellant Nevada. Allan S. Haley argued for respondent. John G. Bilheimer appeared for respondent but did not argue. Cause submitted. (Consolidated with C031330.)

**C031330      FRIENDS OF THE TRAILS et al. v. BLASIOUS et al.; NEVADA IRRIGATION DISTRICT**

Cause called. Eric Grant argued for respondents. Harold E. Johnson appeared for respondents but did not argue. James S. Burling appeared for respondents but did not argue. William H. Spruance argued for respondent. Allan S. Haley argued for appellant. John G. Bilheimer appeared for appellant but did not argue. Cause submitted. (Consolidated with C032253.)

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

10

**The Minutes**

**February 22, 2000 continued**

- C031561      DUFF et al., Minors, etc. v. VALLEY WHOLESALE DRUG CO. et al.**  
Cause called. Tony J. Tanke argued for appellants. Nancy Vitale argued for respondents. Cause submitted.
- At 11:07 a.m., court recessed. At 2:00 p.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Sims, and Associate Justice Davis.
- C030973      THE PEOPLE v. FORD**  
Cause called. Sandra Gillies, court appointed counsel, argued for appellant. Wayne K. Strumpfer, Deputy Attorney General argued for respondent. Cause submitted.
- C030610      THE PEOPLE v. ANDERSON**  
Cause called. Charles M. Bonneau, court appointed counsel, argued for appellant. Rachelle A. Newcomb, Deputy Attorney General, argued for respondent. Cause submitted.
- At 2:56 p.m., court recessed. At 3:00 p.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Sims, and Associate Justice Nicholson.
- C021555      CLARKE v. HOLDEN**  
Cause called. Yvonne Holden argued for appellant in pro per. Raphael L. Rosingana argued for respondent. Cause submitted.
- At 3:01 p.m., court recessed. At 3:02 p.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Davis, and Associate Justice Nicholson.
- C031681      THE FUTURE, CITY OF PLYMOUTH AND FOOTHILL CONSERVANCY  
v. EL DORADO COUNTY BOARD OF SUPERVISORS AND COUNTY  
OF EL DORADO; COOK RANCH PARTNERS**  
Cause called. Randy L. Barrow argued for appellants. Thomas P. Infusino appeared for appellants but did not argue. Howard N. Ellman argued for respondent with additional citations. Edward L. Knapp appeared for respondents Board but did not argue. Cause submitted.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

11

**The Minutes**

**February 22, 2000 continued**

At 3:40 p.m., court recessed. At 3:42 p.m., court reconvened with Acting Presiding Justice, Associate Justice Callahan, and Associate Justice Hull.

**C029742      THE PEOPLE v. BRITT**

Cause called. Kate Johnston, Deputy State Public Defender, argued for appellant. Donald J. Ayoob, Supervising Deputy State Public Defender, appeared for appellant but did not argue. Doris A. Calandra, Deputy Attorney General, argued for respondent. Cause submitted.

Court adjourned at 4:06 p.m., until 9:30 a.m., March 20, 2000

**C031652      ROBINSON v. CITY OF MANTECA      (Certified for Publication)**

The opinion in the above entitled matter filed on January 21, 2000, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and is so ordered.

DAVIS, Acting P.J.

We concur: Raye, J.  
Kolkey, J.

**C031398      THE PEOPLE v. MACDONALD      (Not for Publication)**

The superior court's order requiring defendant to pay \$3,783.90 in restitution is vacated. The matter is remanded to the superior court with directions to conduct a new hearing in conformity with this opinion.

RAYE, J.

We concur: Blease, Acting P.J.  
Davis, J.

**C031201      THE PEOPLE v. BEAN      (Not for Publication)**

The judgment is affirmed.

HULL, J.

We concur: Blease, Acting P.J.  
Callahan, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

12

**The Minutes**

**February 22, 2000 continued**

- C030993      THE PEOPLE v. ALLEN      (Certified for Publication)**  
The judgment is affirmed.  
                                DAVIS, J.  
We concur:    Blease, Acting P.J.  
                                Raye, J
- C031614      THE PEOPLE v. BUTLER      (Not for Publication)**  
The judgment is affirmed. The trial court is directed to correct the abstract of judgment and to forward a copy of the corrected abstract to the Department of Corrections.  
                                NICHOLSON, J.  
We concur:    Scotland, P.J.  
                                Sims, J.
- C031692      THE PEOPLE v. WHIGHAM      (Not for Publication)**  
The judgment is affirmed.  
                                RAYE, J.  
We concur:    Blease, Acting P.J.  
                                Davis, J.
- C029557      GERST v. CITY OF GRIDLEY      (Not for Publication)**  
The judgment is affirmed.  
                                SCOTLAND, P.J.  
We concur:    Sims, J.  
                                Davis, J.
- C031005      THE PEOPLE v. TRATAR      (Not for Publication)**  
The appeal is dismissed.  
                                HULL, J.  
We concur:    Scotland, P.J.  
                                Davis, J.
- C030328      THE PEOPLE v. KING      (Not for Publication)**  
The firearm use enhancement (§ 12022.5, subd. (a)) associated with count 3 is stricken. The trial court is directed to modify the abstract of judgment accordingly and to forward a copy of the amended abstract to the Department of Corrections. As modified, the judgment is affirmed.  
                                HULL, J.  
We concur:    Scotland, P.J.  
                                Davis, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

13

**The Minutes**

**February 23, 2000**

**C034419      BECKMAN et al. v. SUPERIOR COURT, EL DORADO; COUNTY OF EL DORADO**  
**(Not for Publication)**

Let a peremptory writ of mandate issue directing the superior court of El Dorado County to set aside and vacate the order of November 22, 1999, and undertake such further proceedings as are appropriate to determine the parties' motions for summary judgment or adjudication of issues.

The alternative writ is discharged. The parties shall bear their own costs.

BLEASE, Acting P.J.

We concur:    Davis, J.

Hull, J.

**C034375      COUNTY OF EL DORADO v. SUPERIOR COURT, EL DORADO (BECKMAN et al.)**  
**(Not for Publication)**

Let a peremptory writ of mandate issue directing the superior court of El Dorado County to set aside and vacate the order of November 22, 1999, and undertake such further proceedings as are appropriate to determine the parties' motions for summary judgment or adjudication of issues.

The alternative writ is discharged. The parties shall bear their own costs.

BLEASE, Acting P.J.

We concur:    Davis, J.

Hull, J.

**C034422      TURNER v. SUPERIOR COURT, EL DORADO (BECKMAN et al.)**  
**(Not for Publication)**

Let a peremptory writ of mandate issue directing the superior court of El Dorado County to set aside and vacate the order of November 22, 1999, and undertake such further proceedings as are appropriate to determine the parties' motions for summary judgment or adjudication of issues.

The alternative writ is discharged. The parties shall bear their own costs.

BLEASE, Acting P.J.

We concur:    Davis, J.

Hull, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

14

**The Minutes**

**February 23, 2000 continued**

- C031530**      **In re LAUREN W.; SACRAMENTO COUNTY DEPARTMENT OF  
HEALTH AND HUMAN SERVICES v. CONNIE et al.**  
**(Not for Publication)**  
The findings that Lauren was a dependent child as a consequence of domestic violence and was left without support by Alexander are stricken. The jurisdictional findings and dispositional orders are otherwise affirmed.  
SIMS, Acting P.J.  
We concur: Morrison, J.  
Kolkey, J.
- C026832**      **THE PEOPLE v. PINOLA**      **(Not for Publication)**  
**C027985**  
The judgment is affirmed.  
RAYE, Acting P.J.  
We concur: Callahan, J.  
Morrison, J.
- C031556**      **THE PEOPLE v. HATTON**      **(Not for Publication)**  
The judgment is affirmed.  
CALLAHAN, J.  
We concur: Davis, Acting P.J.  
Kolkey, J.
- C032807**      **THE PEOPLE v. GUIVER**      **(Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We concur: Raye, Acting P.J.  
Kolkey, J.
- C032568**      **THE PEOPLE v. EAMES**      **(Not for Publication)**  
The judgment (order of probation) is modified to provide for state and county penalty assessments (Pen. Code, § 1464; Gov. Code, § 76000) of \$50 and \$35, respectively, upon the criminal laboratory analysis fee of \$50 (§ 11372.5) and state and county penalty assessments of \$150 and \$105, respectively, upon the drug program fee of \$150 (§ 11372.5). As modified, the judgment is affirmed.  
NICHOLSON, J.  
We concur: Scotland, P.J.  
Sims, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

15

**The Minutes**

**February 23, 2000 continued**

**C030498      THE PEOPLE v. WHITSETT      (Not for Publication)**  
The judgment is modified by imposition of a \$200 restitution fine. The trial court is directed to prepare and forward to the Department of Corrections a corrected abstract of judgment. In all other respects the judgment is affirmed.  
MORRISON, J.  
We concur:    Scotland, P.J.  
                  Blease, J.

**February 23, 2000 continued**

**C031461      THE PEOPLE v. RUSSELL      (Not for Publication)**  
The \$600 penalty assessment is stricken. The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Correction. As modified, the judgment is affirmed.  
MORRISON, J.  
We concur:    Nicholson, Acting P.J.  
                  Callahan, J.

**C032552      LEFFLER v. COUNTY OF PLACER      (Not for Publication)**  
The judgment is affirmed.  
CALLAHAN, J.  
We concur:    Davis, Acting P.J.  
                  Kolkey, J.

**February 24, 2000**

**C028425      THE PEOPLE v. FLYNN**  
Appellant's petition for rehearing is denied.  
RAYE, Acting P.J.

**C030635      THE PEOPLE v. SCOTT**  
Appellant's petition for rehearing is denied.  
BLEASE, Acting P.J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

16

**The Minutes**

**February 23, 2000 continued**

- C028998      UNITED PARCEL SERVICE COMPANY v. PEDUS SECURITY, Inc.;**  
**CONTINENTAL CASUALTY COMPANY**  
**(Not for Publication)**  
The judgments in favor of Pedus and Continental are reversed with directions to enter a new order granting UPS lease to amend. The orders awarding attorneys fees are vacated. UPS shall recover costs on appeal.  
   DAVIS, Acting P.J.  
We concur:      Raye, J.  
   Morrison, J.
- C027818      KELLY v. SIERRA-AT-TAHOE, Inc. et al.**  
**(Not for Publication)**  
The judgment is affirmed.  
   DAVIS, Acting P.J.  
We concur:      Scotland, P.J.  
   Kolkey, J
- C030556      THE PEOPLE v. CHA**  
**(Not for Publication)**  
The judgment is affirmed.  
   DAVIS, J.  
We concur:      Scotland, P.J.  
   Hull, J.
- C029439      Conservatorship of WENDLAND**  
**(Certified for Publication)**  
The judgment is reversed and the matter is remanded to the trial court for further proceedings consistent with this opinion. Appellants shall recover their costs on appeal. (See rule 26(a), Cal. Rules of Court.)  
   SIMS, J.  
We concur:      Scotland, P.J.  
   Morrison, J.
- C028666      HANSEN et al. v. SACRAMENTO YOLO PORT DISTRICT et al.**  
**(Not for Publication)**  
The judgment is affirmed.  
   RAYE, J.  
We concur:      Blease, Acting P.J.  
   Callahan, J.



## 17

**February 23, 2000 continued**

**February 25, 2000**

**February 25, 2000 continued**

**C031770** **BUTLER v. SAMET et al.** **(Not for Publication)**  
The judgment in favor of Scripps is affirmed; Scripps shall recover its costs of this appeal. The judgment in favor of Counsel is reversed as to Butler's claim of malicious institution and maintenance of the cause of action for abuse of process; Butler shall recover his costs of this appeal from Counsel. The case is remanded to the trial court for further proceedings in accordance with this opinion.  
BLEASE, Acting P.J.  
We concur: Morrison, J.  
Callahan, J.